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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,948	11/08/2000	Tetsuro Ashida	0879-0289P	9136

7590 04/20/2005
 BIRCH, STEWART, KOLASCH & BIRCH, LLP
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 Falls Church, VA 22040-0747

EXAMINER

BALI, VIKKRAM

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/707,948

Applicant(s)

ASHIDA ET AL.

Examiner

Vikram Bali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 12/17/2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 7-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al (US 6204881).

With respect to claim 7 (exemplary claim) Ikeda discloses enhancing an image that includes a reproducing an image in visible form based on an input image data on an output device, (see col. 3, lines 28-30) and executing a function automatically changing a dynamic range of the image as selected by a user viewing the image, (see col. 3, lines 28-35, it states that the apparatus enables to convert the image per the users preference using the dynamic range, the "automatically" is read as the processing apparatus) as claimed. However, he fails to disclose the at least a part of the image, as claimed. But, one ordinary skilled in the art can obviously consider the part of the image as the entire image, because the viewer can select the entire image as the claim does not stop the view from not selecting the entire image. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply consider the selection of the image as the entire image as the "part of the image" to execute the

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change in dynamic range of the image in order to reproduce the image on the output device.

With respect to claims 8 and 10, Ikeda disclose the invention substantially as disclose and as describe above. However, he fails to disclose the specifying area is specified by using the touch panel where the viewer selects the area, as claimed. Examiner would like to take the official Notice as the selection of the area using the touch panel is well known in the art in apparatus such as games, PDA's, etc. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply use the well known feature in the art of the touch panel in order to select the desired area to do the dynamic range change of an image.

Claim 1 is rejected for the same reasons as set forth in the rejection of claim 7, as claim 1 is claiming similar subject matter as claim 1.

5. Claims 9, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al (US 6204881) in view of Molloy (US 6078349).

With respect to claims 9 and 11-12, Ikeda disclose the invention substantially as disclose and as describe above. However, he fails to disclose action of the viewer viewing the image is a movement of the viewer eye and the area selected is by the eye movement having a line of sight detection apparatus, as claimed. Molloy teaches a display apparatus that includes a action of the viewer viewing the image is a movement of the viewer eye and the area selected is by the eye movement having a line of sight detection apparatus, (see col. 4, lines 29-39, wherein the display 14 does have a screen

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12 the viewer 10 controls the focus of a region 18 by the eye tracking technology see col. 9 lines 43-50) as claimed. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to combine the two references because they are analogous as they are solving similar problem of image enhancement. The Ikeda does include some sort of a user interaction in order to do the dynamic range change of the image and the user interaction as taught by the Molloy can be introduce in place of the user interaction of the Ikeda in order to enhance the display of the image.

6. Claims 2, 3-4, 6, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda et al (US 5953459):

With respect to claim 3 (exemplary claim) Ueda discloses an image data input (see figure 2, 10); an image output device (see figure 2, 19); a tone conversion characteristic varying device (see figure 39, 132, and col. 38, lines 58-61) and image processing device to create the image per the tone characteristic set selected by the viewer, (see col. 38 line 58 through col. 39, line 6, the "automatically" is read as the processing done by the CPU) as claimed. However, he fails to disclose the at least a part of the image, as claimed. But, one ordinary skilled in the art can obviously consider the part of the image as the entire image, because the viewer can select the entire image as the claim does not stop the view from not selecting the entire image. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply consider the selection of the image as the entire image as the "part

of the image” to execute the change in dynamic range of the image in order to reproduce the image on the output device.

With respect to claim 4, he further discloses the playback apparatus being the printer, (see figure 38, 116) as claimed.

With respect to claim 6, Ueda disclose the invention substantially as disclose and as describe above. However, he fails to disclose the output device be the display device and the specifying area is specified by using the touch panel where the viewer select the area, as claimed. Examiner would like to take the official Notice as the features of having the image output device be a display device and the selection of the area using the touch panel is well known in the art in apparatus such as PDA's, the output data could very well be displayed and could be selected using the touch panel etc. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply use the well known feature in the art of the touch panel display system in order to select the desired area to do the tone conversion of the image.

Claims 2 and 13 are rejected for the same reasons as set forth in the rejection of claim 3, as claims 2 and 13 are claiming similar subject matter as claim 3.

With respect to claims 14 and 16, Ueda disclose the invention substantially as disclose and as describe above. However, he fails to disclose the action of the viewer is a manual input to a touch panel device and the specifying area is specified by using the touch panel where the viewer select the area, as claimed. Examiner would like to take the official Notice as the features of having the image output device be a touch panel display device and the selection of the area using the touch panel is well known in

the art in apparatus such as PDA's, the output data could very well be displayed data as long as there is an image memory (see figure 38, 132 output image memory) and could be selected using the touch panel etc. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply use the well known feature in the art of the touch panel display system in order to select the desired area to do the tone conversion of the image.

7. Claims 5, 15 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda et al (US 5953459) in view of Molloy (US 6078349).

With respect to claim 5, Ueda disclose the invention substantially as disclose and as describe above. However, he fails to disclose the output device be the display device, and the area specifying device comprises a line of sight detection apparatus and action of the viewer viewing the image is a movement of the viewer eye and the area selected is by the eye movement having a line of sight detection apparatus (as claimed in claims 15 and 17-18), as claimed. Examiner would like to take the official Notice as the features of having the image output device be a display device, as the image output data could very well be displayed on a display before printing the image data as long as there is an image memory (see figure 38, 132 output image memory). Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply use the well known feature in the art of the touch panel display system in order to select the desired area to do the tone conversion of the image. Molloy teaches a display apparatus that includes a action of the viewer viewing the image is a movement

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of the viewer eye and the area selected is by the eye movement having a line of sight detection apparatus, (see col. 4, lines 29-39, wherein the display 14 does have a screen 12 the viewer 10 controls the focus of a region 18 by the eye tracking technology see col. 9 lines 43-50) as claimed. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to combine the two references because they are analogous as they are solving similar problem of image enhancement. The Ueda does include some sort of a user interaction in order to do the tone conversion of the image and the user interaction as taught by the Molloy can be introduce in place of the user interaction of the Ueda in order to enhance the display of the image.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 571.272.7415. The examiner can normally be reached on 7:00 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 571.272.7414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

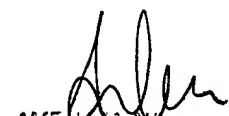
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vikkram Bali
Primary Examiner
Art Unit 2623

vb
April 5, 2005



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